

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's Alternative Plan for Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM.

Investigation 02-04-026
(Filed April 22, 2002)

**ASSIGNED COMMISSIONER'S RULING REGARDING
THIRD AMENDED DECLARATION AND COMMENTS
AND SETTING EVIDENTIARY HEARING**

1. Summary

Energy Division shall file and serve a Third Amended Declaration, and parties may file and serve comments. Further, Energy Division shall, and other parties may, serve proposed direct and rebuttal testimonies, and evidentiary hearing is set, as shown in the amended schedule adopted below.

2. Background

On April 15, 2002, the Commission filed with the United States Bankruptcy Court for the Northern California District of California an alternative Plan of Reorganization (POR) for Pacific Gas and Electric Company (PG&E) pursuant to Chapter 11 of the Bankruptcy Code. On April 22, 2002, this investigation was filed.

On July 17, 2002, I filed and served the Scoping Memo and Ruling in this proceeding, setting dates for declarations, comments and motions for hearing. On July 24, 2002, the Energy Division Director filed and served a Declaration. On August 2, 2002, The Utility Reform Network (TURN) filed and served comments. Also on August 2, 2002, TURN moved for evidentiary hearing. No responses to the motion were filed.

By Ruling dated August 14, 2002, parties were provided the opportunity to file specific proposed modifications to the Commission's POR. On August 21, 2002, TURN filed and served such proposals. Among other things, TURN recommends modification of the Commission's POR to raise cash through the use of a dedicated rate component (DRC). Also, TURN recommends that the Commission hold hearings to determine whether ratepayers will bear all the financial risk for utility assets and, as a result, are entitled to all the gain on sale upon a transfer.

On September 3, 2002, the Commission and Official Committee of Unsecured Creditors (Creditors) filed the First Amended POR and Supplemental Disclosure Statement (dated August 30, 2002) with the Bankruptcy Court. On September 10, 2002, Energy Division filed a copy of each document in this docket at the Commission. On September 24, 2002, the Energy Division filed and served an Amended Declaration.

On November 6, 2002, the Commission and Creditors filed the Second Amended POR with the Bankruptcy Court. On November 14, 2002, Energy Division filed a copy of the amended plan in this docket at the Commission. On November 20, 2002, Energy Division filed and served a Second Amended Declaration.

On December 5, 2002, the Commission and Creditors filed the Third Amended POR with the Bankruptcy Court. On December 10, 2002, the Energy Division filed a copy of the amended plan in this docket at the Commission.

3. Discussion

Energy Division should file and serve a Third Amended Declaration. The Third Amended Declaration should address the ratemaking implications of the Third Amended POR, whether or not the resulting rates are just and reasonable, and any other matters that need to be decided by the Commission in order to implement the Third Amended POR. It should also state the levelized average generation rate that results from the Third Amended POR (e.g., compared to the levelized cost of \$0.051/kWh in PG&E's plan, and the \$0.035/kWh average cost under the Second Amended POR).

Energy Division should file and serve the Third Amended Declaration by the date below. Parties may file and serve comments on the Third Amended Declaration, with comments filed and served by the date below.

Further, TURN's motion for evidentiary hearing is granted. Energy Division shall, and parties may, serve proposed testimony and proposed rebuttal testimony. Proposed testimony and rebuttal shall be served by the dates below. Energy Division may combine its Third Amended Declaration with its proposed testimony if Energy Division determines this would promote efficiency.

Proposed testimony should address the following material issues of potentially disputed fact:

1. What is PG&E's cost-of-service for the assets subject to the POR? What is the estimated cost to ratepayers of the PG&E POR, and how does this compare to the cost-of-service? What is the estimated cost to ratepayers of the Commission POR, and how does this compare to the cost-of-service?

2. On the basis of cost, is the POR proposed by PG&E, or the one proposed by the Commission, better for ratepayers? What is the net benefit of one plan compared to the other?
3. On any basis other than cost, is the POR proposed by PG&E, or the one proposed by the Commission, better for ratepayers as the Commission weighs factors to determine whether or not the resulting rates are just and reasonable?
4. How would a DRC work? What would be the cost of a DRC? What would be the cost without a DRC? What savings, if any, would result by the use of a DCR compared to PG&E's POR? What savings, if any, would result by use of a DCR compared to the Commission's POR?
5. Other facts Energy Division or a party believes must be stated for the Commission to reach a decision on whether the rates resulting from PG&E's POR, the Commission's POR, or a further amended POR, are just and reasonable.

Proposed rebuttal testimony shall be limited to rebutting evidence stated in proposed testimony, and shall cite to the evidence that is being rebutted.

Evidentiary hearing shall be held on the date stated in the schedule below, and shall be held in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. In addition to proposed testimony and rebuttal testimony, Energy Division shall sponsor its initial and amended declarations, which shall be subject to cross-examination. The Principal Hearing Officer shall be Administrative Law Judge Burton W. Mattson.

Final dates for opening and reply briefs, if any, shall be adopted at the conclusion of hearing. Parties may file motions for final oral argument consistent with the directions in the July 17, 2002 Scoping Memo and Ruling.

The period for review of, and comment on, the proposed decision is reduced, but not waived. That is, the federal bankruptcy court schedule imposes

limitations or deadlines for Commission action. This is an unforeseen emergency pursuant to Commission Rules. (Rule 81(g) of the Commission's Rules of Practice and Procedure.) In the case of such unforeseen emergency, the Commission may reduce the period for public review and comment. (Rule 77.7(g)(8).) The adopted schedule allows reasonable opportunity for parties to file and serve comments and reply comments on the proposed decision while permitting the Commission to complete its work consistent with the court's schedule.

IT IS RULED that:

1. Energy Division shall file and serve, by the date set forth in the amended schedule below, a Third Amended Declaration that addresses the items stated in the body of this Ruling. Energy Division may combine the Third Amended Declaration with served proposed testimony.

2. Parties may file and serve comments on the Energy Division's Third Amended Declaration, and comments, if any, shall be filed and served by the date set forth in the amended schedule below.

3. Energy Division shall, and parties may, serve proposed testimony and rebuttal testimony. Proposed testimony shall address the items stated in the body of this ruling. Proposed rebuttal testimony shall be limited to the matters raised in proposed testimony. The proposed testimony and rebuttal testimony shall be served by the date in the amended schedule below.

4. Evidentiary hearing shall be held at 9:30 a.m., on January 7, 2003, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. Energy Division shall sponsor its Declaration, Amended Declarations, proposed testimony and proposed rebuttal testimony. The Presiding Officer shall be Burton W. Mattson.

5. The amended schedule for this proceeding is:

DATE	EVENT
December 27, 2002	Energy Division files and serves Third Amended Declaration
December 27	Energy Division and parties serve proposed testimony
January 3, 2003	Parties file and serve comments on Third Amended Declaration
January 3	Energy Division and parties serve proposed rebuttal testimony
January 7, 2003	Evidentiary Hearing at 9:30 a.m., Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California
January 13	Opening Briefs filed and served
January 15	Reply Briefs filed and served
January 15	Proposed Submission Date
January 31	Proposed Decision filed and served
February 14	Comments on Proposed Decision filed and served
February 14	Motion for Final Oral Argument filed and served
February 18	Responses to motion for Final Oral Argument filed and served
February 19	Reply Comments on Proposed Decision filed and served
February 21	Final Oral Argument
February 27	Commission Decision

Dated December 17, 2002, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail on those with electronic mail addresses, this day served a true copy of the original attached Assigned Commissioner's Ruling Regarding Third Amended Declaration and Comments and Setting Evidentiary Hearing on all parties of record in this proceeding or their attorneys of record.

Dated December 17, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

